

**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

**In the Matter of the Accusation)
Against:)**

MICHAEL NAM TRUONG, M.D.)

Case No. 800-2015-013826

**Physician's and Surgeon's)
Certificate No. A124243)**

Respondent)

DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on September 14, 2017.

IT IS SO ORDERED: August 15, 2017.

MEDICAL BOARD OF CALIFORNIA



**Michelle Anne Bholate, M.D., Chair
Panel B**

1 XAVIER BECERRA
Attorney General of California
2 JUDITH T. ALVARADO
Supervising Deputy Attorney General
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8 **BEFORE THE**
9 **MEDICAL BOARD OF CALIFORNIA**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. 800-2015-013826

12 **MICHAEL TRUONG, M.D.**
13 **757 Westwood Plz Ste 3304**
LOS ANGELES, CA 90095-8358

OAH No. 2016120724

14 **Physician's and Surgeon's Certificate No.**
15 **A124243,**

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

16 Respondent.

17
18
19 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
20 entitled proceedings that the following matters are true:

21 **PARTIES**

22 1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board
23 of California (Board). She brought this action solely in her official capacity and is represented in
24 this matter by Xavier Becerra, Attorney General of the State of California, by Christina L. Sein,
25 Deputy Attorney General.

26 2. Respondent Michael Truong, M.D. (Respondent) is represented in this proceeding by
27 attorney Peter R. Osinoff, Esq., whose address is: Bonne, Bridges, Mueller, O'Keefe & Nichols,
28 355 South Grand Avenue, Suite 1750, Los Angeles, California 90071-1562.

1 3. On or about January 11, 2013, the Board issued Physician's and Surgeon's Certificate
2 No. A124243 to Respondent. The Physician's and Surgeon's Certificate was in full force and
3 effect at all times relevant to the charges brought in Accusation No. 800-2015-013826, and will
4 expire on December 31, 2018, unless renewed.

5 **JURISDICTION**

6 4. Accusation No. 800-2015-013826 was filed before the Board, and is currently
7 pending against Respondent. The Accusation and all other statutorily required documents were
8 properly served on Respondent on June 17, 2016. Respondent timely filed his Notice of Defense
9 contesting the Accusation.

10 5. A copy of Accusation No. 800-2015-013826 is attached as exhibit A and incorporated
11 herein by reference.

12 **ADVISEMENT AND WAIVERS**

13 6. Respondent has carefully read, fully discussed with counsel, and understands the
14 charges and allegations in Accusation No. 800-2015-013826. Respondent has also carefully read,
15 fully discussed with counsel, and understands the effects of this Stipulated Settlement and
16 Disciplinary Order.

17 7. Respondent is fully aware of his legal rights in this matter, including the right to a
18 hearing on the charges and allegations in the Accusation; the right to confront and cross-examine
19 the witnesses against him; the right to present evidence and to testify on his own behalf; the right
20 to the issuance of subpoenas to compel the attendance of witnesses and the production of
21 documents; the right to reconsideration and court review of an adverse decision; and all other
22 rights accorded by the California Administrative Procedure Act and other applicable laws.

23 8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
24 every right set forth above.

25 **CULPABILITY**

26 9. Respondent does not contest that, at an administrative hearing, Complainant could
27 establish a *prima facie* case with respect to the charges and allegations contained in Accusation
28 No. 800-2015-013826 and that he has thereby subjected his license to disciplinary action.

10. Respondent agrees that his Physician's and Surgeon's Certificate is subject to discipline and he agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

11. Respondent agrees that if he ever petitions for early termination or modification of probation, or if the Board ever petitions for revocation of probation, all of the charges and allegations contained in Accusation No. 800-2015-013826 shall be deemed true, correct and fully admitted by Respondent for purposes of that proceeding or any other licensing proceeding involving Respondent in the State of California.

CONTINGENCY

12. This stipulation shall be subject to approval by the Medical Board of California. Respondent understands and agrees that counsel for Complainant and the staff of the Medical Board of California may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

13. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile signatures thereto, shall have the same force and effect as the originals.

14. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A124243 issued to Respondent Michael Truong, M.D. is revoked. However, the revocation is stayed and

Respondent is placed on probation for five (5) years on the following terms and conditions.

1. CONTROLLED SUBSTANCES - ABSTAIN FROM USE. Respondent shall abstain completely from the personal use or possession of controlled substances as defined in the California Uniform Controlled Substances Act, dangerous drugs as defined by Business and Professions Code section 4022, and any drugs requiring a prescription. This prohibition does not apply to medications lawfully prescribed to Respondent by another practitioner for a bona fide illness or condition.

Within 15 calendar days of receiving any lawfully prescribed medications, Respondent shall notify the Board or its designee of the: issuing practitioner's name, address, and telephone number; medication name, strength, and quantity; and issuing pharmacy name, address, and telephone number.

If Respondent has a confirmed positive biological fluid test for any substance (whether or not legally prescribed) and has not reported the use to the Board or its designee, Respondent shall receive a notification from the Board or its designee to immediately cease the practice of medicine. The Respondent shall not resume the practice of medicine until the final decision on an accusation and/or a petition to revoke probation is effective. An accusation and/or petition to revoke probation shall be filed by the Board within 30 days of the notification to cease practice.

If the Respondent requests a hearing on the accusation and/or petition to revoke probation, the Board shall provide the Respondent with a hearing within 30 days of the request, unless the Respondent stipulates to a later hearing. If the case is heard by an Administrative Law Judge alone, he or she shall forward a Proposed Decision to the Board within 15 days of submission of the matter. Within 15 days of receipt by the Board of the Administrative Law Judge's proposed decision, the Board shall issue its Decision, unless good cause can be shown for the delay. If the case is heard by the Board, the Board shall issue its decision within 15 days of submission of the case, unless good cause can be shown for the delay. Good cause includes, but is not limited to, non-adoption of the proposed decision, request for reconsideration, remands and other interlocutory orders issued by the Board. The cessation of practice shall not apply to the reduction of the probationary time period.

1 If the Board does not file an accusation or petition to revoke probation within 30 days of the
2 issuance of the notification to cease practice or does not provide Respondent with a hearing
3 within 30 days of a such a request, the notification of cease practice shall be dissolved.

4 2. ALCOHOL - ABSTAIN FROM USE. Respondent shall abstain completely from the
5 use of products or beverages containing alcohol.

6 If Respondent has a confirmed positive biological fluid test for alcohol, Respondent shall
7 receive a notification from the Board or its designee to immediately cease the practice of
8 medicine. The Respondent shall not resume the practice of medicine until the final decision on an
9 accusation and/or a petition to revoke probation is effective. An accusation and/or petition to
10 revoke probation shall be filed by the Board within 30 days of the notification to cease practice.
11 If the Respondent requests a hearing on the accusation and/or petition to revoke probation, the
12 Board shall provide the Respondent with a hearing within 30 days of the request, unless the
13 Respondent stipulates to a later hearing. If the case is heard by an Administrative Law Judge
14 alone, he or she shall forward a Proposed Decision to the Board within 15 days of submission of
15 the matter. Within 15 days of receipt by the Board of the Administrative Law Judge's proposed
16 decision, the Board shall issue its Decision, unless good cause can be shown for the delay. If the
17 case is heard by the Board, the Board shall issue its decision within 15 days of submission of the
18 case, unless good cause can be shown for the delay. Good cause includes, but is not limited to,
19 non- adoption of the proposed decision, request for reconsideration, remands and other
20 interlocutory orders issued by the Board. The cessation of practice shall not apply to the
21 reduction of the probationary time period.

22 If the Board does not file an accusation or petition to revoke probation within 30 days of the
23 issuance of the notification to cease practice or does not provide Respondent with a hearing
24 within 30 days of a such a request, the notification of cease practice shall be dissolved.

25 3. PROFESSIONALISM PROGRAM (ETHICS COURSE). Within 60 calendar days of
26 the effective date of this Decision, Respondent shall enroll in a professionalism program, that
27 meets the requirements of Title 16, California Code of Regulations (CCR) section 1358.
28 Respondent shall participate in and successfully complete that program. Respondent shall

1 provide any information and documents that the program may deem pertinent. Respondent shall
2 successfully complete the classroom component of the program not later than six (6) months after
3 Respondent's initial enrollment, and the longitudinal component of the program not later than the
4 time specified by the program, but no later than one (1) year after attending the classroom
5 component. The professionalism program shall be at Respondent's expense and shall be in
6 addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

7 A professionalism program taken after the acts that gave rise to the charges in the
8 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
9 or its designee, be accepted towards the fulfillment of this condition if the program would have
10 been approved by the Board or its designee had the program been taken after the effective date of
11 this Decision.

12 Respondent shall submit a certification of successful completion to the Board or its
13 designee not later than 15 calendar days after successfully completing the program or not later
14 than 15 calendar days after the effective date of the Decision, whichever is later.

15 4. PSYCHIATRIC EVALUATION. Within 30 calendar days of the effective date of
16 this Decision, and on whatever periodic basis thereafter may be required by the Board or its
17 designee, Respondent shall undergo and complete a psychiatric evaluation (and psychological
18 testing, if deemed necessary) by a Board-appointed board certified psychiatrist, who shall
19 consider any information provided by the Board or designee and any other information the
20 psychiatrist deems relevant, and shall furnish a written evaluation report to the Board or its
21 designee. Psychiatric evaluations conducted prior to the effective date of the Decision shall not
22 be accepted towards the fulfillment of this requirement. Respondent shall pay the cost of all
23 psychiatric evaluations and psychological testing.

24 Respondent shall comply with all restrictions or conditions recommended by the evaluating
25 psychiatrist within 15 calendar days after being notified by the Board or its designee, including
26 any psychotherapy recommended by the evaluating psychiatrist.

27 5. SOLO PRACTICE PROHIBITION. Respondent is prohibited from engaging in the
28 solo practice of medicine. Prohibited solo practice includes, but is not limited to, a practice

1 where: 1) Respondent merely shares office space with another physician but is not affiliated for
2 purposes of providing patient care, or 2) Respondent is the sole physician practitioner at that
3 location.

4 If Respondent fails to establish a practice with another physician or secure employment in
5 an appropriate practice setting within 60 calendar days of the effective date of this Decision,
6 Respondent shall receive a notification from the Board or its designee to cease the practice of
7 medicine within three (3) calendar days after being so notified. The Respondent shall not resume
8 practice until an appropriate practice setting is established.

9 If, during the course of the probation, the Respondent's practice setting changes and the
10 Respondent is no longer practicing in a setting in compliance with this Decision, the Respondent
11 shall notify the Board or its designee within 5 calendar days of the practice setting change. If
12 Respondent fails to establish a practice with another physician or secure employment in an
13 appropriate practice setting within 60 calendar days of the practice setting change, Respondent
14 shall receive a notification from the Board or its designee to cease the practice of medicine within
15 three (3) calendar days after being so notified. The Respondent shall not resume practice until an
16 appropriate practice setting is established.

17 6. NOTICE OF EMPLOYER OR SUPERVISOR INFORMATION. Within seven (7)
18 days of the effective date of this Decision, Respondent shall provide to the Board the names,
19 physical addresses, mailing addresses, and telephone numbers of any and all employers and
20 supervisors. Respondent shall also provide specific, written consent for the Board, Respondent's
21 worksite monitor, and Respondent's employers and supervisors to communicate regarding
22 Respondent's work status, performance, and monitoring.

23 For purposes of this section, "supervisors" shall include the Chief of Staff and Health or
24 Well Being Committee Chair, or equivalent, if applicable, when the Respondent has medical staff
25 privileges.

26 7. BIOLOGICAL FLUID TESTING. Respondent shall immediately submit to
27 biological fluid testing, at Respondent's expense, upon request of the Board or its designee.
28 "Biological fluid testing" may include, but is not limited to, urine, blood, breathalyzer, hair

1 follicle testing, or similar drug screening approved by the Board or its designee. Respondent shall
2 make daily contact with the Board or its designee to determine whether biological fluid testing is
3 required. Respondent shall be tested on the date of the notification as directed by the Board or its
4 designee. The Board may order a Respondent to undergo a biological fluid test on any day, at
5 any time, including weekends and holidays. Except when testing on a specific date as ordered by
6 the Board or its designee, the scheduling of biological fluid testing shall be done on a random
7 basis. The cost of biological fluid testing shall be borne by the Respondent.

8 During the first year of probation, Respondent shall be subject to 52 to 104 random tests.
9 During the second year of probation and for the duration of the probationary term, up to five (5)
10 years, Respondent shall be subject to 36 to 104 random tests per year. Only if there has been no
11 positive biological fluid tests in the previous five (5) consecutive years of probation, may testing
12 be reduced to one (1) time per month. Nothing precludes the Board from increasing the number
13 of random tests to the first-year level of frequency for any reason.

14 Prior to practicing medicine, Respondent shall contract with a laboratory or service,
15 approved in advance by the Board or its designee, that will conduct random, unannounced,
16 observed, biological fluid testing and meets all the following standards:

17 (a) Its specimen collectors are either certified by the Drug and Alcohol Testing Industry
18 Association or have completed the training required to serve as a collector for the United
19 States Department of Transportation.

20 (b) Its specimen collectors conform to the current United States Department of
21 Transportation Specimen Collection Guidelines

22 (c) Its testing locations comply with the Urine Specimen Collection Guidelines published
23 by the United States Department of Transportation without regard to the type of test
24 administered.

25 (d) Its specimen collectors observe the collection of testing specimens.

26 (e) Its laboratories are certified and accredited by the United States Department of Health
27 and Human Services.

28 (f) Its testing locations shall submit a specimen to a laboratory within one (1) business day

1 of receipt and all specimens collected shall be handled pursuant to chain of custody
2 procedures. The laboratory shall process and analyze the specimens and provide legally
3 defensible test results to the Board within seven (7) business days of receipt of the
4 specimen. The Board will be notified of non-negative results within one (1) business day
5 and will be notified of negative test results within seven (7) business days.

6 (g) Its testing locations possess all the materials, equipment, and technical expertise
7 necessary in order to test Respondent on any day of the week.

8 (h) Its testing locations are able to scientifically test for urine, blood, and hair specimens
9 for the detection of alcohol and illegal and controlled substances.

10 (i) It maintains testing sites located throughout California.

11 (j) It maintains an automated 24-hour toll-free telephone system and/or a secure on-line
12 computer database that allows the Respondent to check in daily for testing.

13 (k) It maintains a secure, HIPAA-compliant website or computer system that allows staff
14 access to drug test results and compliance reporting information that is available 24 hours a
15 day.

16 (l) It employs or contracts with toxicologists that are licensed physicians and have
17 knowledge of substance abuse disorders and the appropriate medical training to interpret
18 and evaluate laboratory biological fluid test results, medical histories, and any other
19 information relevant to biomedical information.

20 (m) It will not consider a toxicology screen to be negative if a positive result is obtained
21 while practicing, even if the Respondent holds a valid prescription for the substance.

22 Prior to changing testing locations for any reason, including during vacation or other travel,
23 alternative testing locations must be approved by the Board and meet the requirements above.

24 The contract shall require that the laboratory directly notify the Board or its designee of
25 non-negative results within one (1) business day and negative test results within seven (7)
26 business days of the results becoming available. Respondent shall maintain this laboratory or
27 service contract during the period of probation.

28 A certified copy of any laboratory test result may be received in evidence in any

1 proceedings between the Board and Respondent.

2 If a biological fluid test result indicates Respondent has used, consumed, ingested, or
3 administered to himself or herself a prohibited substance, the Board shall order Respondent to
4 cease practice and instruct Respondent to leave any place of work where Respondent is practicing
5 medicine or providing medical services. The Board shall immediately notify all of Respondent's
6 employers, supervisors and work monitors, if any, that Respondent may not practice medicine or
7 provide medical services while the cease-practice order is in effect.

8 A biological fluid test will not be considered negative if a positive result is obtained while
9 practicing, even if the practitioner holds a valid prescription for the substance. If no prohibited
10 substance use exists, the Board shall lift the cease-practice order within one (1) business day.

11 After the issuance of a cease-practice order, the Board shall determine whether the positive
12 biological fluid test is in fact evidence of prohibited substance use by consulting with the
13 specimen collector and the laboratory, communicating with the licensee, his or her treating
14 physician(s), other health care provider, or group facilitator, as applicable.

15 For purposes of this condition, the terms "biological fluid testing" and "testing" mean the
16 acquisition and chemical analysis of a Respondent's urine, blood, breath, or hair.

17 For purposes of this condition, the term "prohibited substance" means an illegal drug, a
18 lawful drug not prescribed or ordered by an appropriately licensed health care provider for use by
19 Respondent and approved by the Board, alcohol, or any other substance the Respondent has been
20 instructed by the Board not to use, consume, ingest, or administer to himself or herself.

21 If the Board confirms that a positive biological fluid test is evidence of use of a prohibited
22 substance, Respondent has committed a major violation, as defined in section 1361.52(a), and the
23 Board shall impose any or all of the consequences set forth in section 1361.52(b), in addition to
24 any other terms or conditions the Board determines are necessary for public protection or to
25 enhance Respondent's rehabilitation.

26 8. SUBSTANCE ABUSE SUPPORT GROUP MEETINGS. Within thirty (30) days of
27 the effective date of this Decision, Respondent shall submit to the Board or its designee, for its
28 prior approval, the name of a substance abuse support group which he or she shall attend for the

1 duration of probation. Respondent shall attend substance abuse support group meetings at least
2 once per week, or as ordered by the Board or its designee. Respondent shall pay all substance
3 abuse support group meeting costs.

4 The facilitator of the substance abuse support group meeting shall have a minimum of three
5 (3) years experience in the treatment and rehabilitation of substance abuse, and shall be licensed
6 or certified by the state or nationally certified organizations. The facilitator shall not have a
7 current or former financial, personal, or business relationship with Respondent within the last five
8 (5) years. Respondent's previous participation in a substance abuse group support meeting led by
9 the same facilitator does not constitute a prohibited current or former financial, personal, or
10 business relationship.

11 The facilitator shall provide a signed document to the Board or its designee showing
12 Respondent's name, the group name, the date and location of the meeting, Respondent's
13 attendance, and Respondent's level of participation and progress. The facilitator shall report any
14 unexcused absence by Respondent from any substance abuse support group meeting to the Board,
15 or its designee, within twenty-four (24) hours of the unexcused absence.

16 9. WORKSITE MONITOR FOR SUBSTANCE-ABUSING LICENSEE. Within thirty
17 (30) calendar days of the effective date of this Decision, Respondent shall submit to the Board or
18 its designee for prior approval as a worksite monitor, the name and qualifications of one or more
19 licensed physician and surgeon, other licensed health care professional if no physician and
20 surgeon is available, or, as approved by the Board or its designee, a person in a position of
21 authority who is capable of monitoring the Respondent at work.

22 The worksite monitor shall not have a current or former financial, personal, or familial
23 relationship with Respondent, or any other relationship that could reasonably be expected to
24 compromise the ability of the monitor to render impartial and unbiased reports to the Board or its
25 designee. If it is impractical for anyone but Respondent's employer to serve as the worksite
26 monitor, this requirement may be waived by the Board or its designee, however, under no
27 circumstances shall Respondent's worksite monitor be an employee or supervisee of the licensee.

28 The worksite monitor shall have an active unrestricted license with no disciplinary action

1 within the last five (5) years, and shall sign an affirmation that he or she has reviewed the terms
2 and conditions of Respondent's disciplinary order and agrees to monitor Respondent as set forth
3 by the Board or its designee.

4 Respondent shall pay all worksite monitoring costs.

5 The worksite monitor shall have face-to-face contact with Respondent in the work
6 environment on as frequent a basis as determined by the Board or its designee, but not less than
7 once per week; interview other staff in the office regarding Respondent's behavior, if requested
8 by the Board or its designee; and review Respondent's work attendance.

9 The worksite monitor shall verbally report any suspected substance abuse to the Board and
10 Respondent's employer or supervisor within one (1) business day of occurrence. If the suspected
11 substance abuse does not occur during the Board's normal business hours, the verbal report shall
12 be made to the Board or its designee within one (1) hour of the next business day. A written
13 report that includes the date, time, and location of the suspected abuse; Respondent's actions; and
14 any other information deemed important by the worksite monitor shall be submitted to the Board
15 or its designee within 48 hours of the occurrence.

16 The worksite monitor shall complete and submit a written report monthly or as directed by
17 the Board or its designee which shall include the following: (1) Respondent's name and
18 Physician's and Surgeon's Certificate number; (2) the worksite monitor's name and signature; (3)
19 the worksite monitor's license number, if applicable; (4) the location or location(s) of the
20 worksite; (5) the dates Respondent had face-to-face contact with the worksite monitor; (6) the
21 names of worksite staff interviewed, if applicable; (7) a report of Respondent's work attendance;
22 (8) any change in Respondent's behavior and/or personal habits; and (9) any indicators that can
23 lead to suspected substance abuse by Respondent. Respondent shall complete any required
24 consent forms and execute agreements with the approved worksite monitor and the Board, or its
25 designee, authorizing the Board, or its designee, and worksite monitor to exchange information.

26 If the worksite monitor resigns or is no longer available, Respondent shall, within five (5)
27 calendar days of such resignation or unavailability, submit to the Board or its designee, for prior
28 approval, the name and qualifications of a replacement monitor who will be assuming that

1 responsibility within fifteen (15) calendar days. If Respondent fails to obtain approval of a
2 replacement monitor within sixty (60) calendar days of the resignation or unavailability of the
3 monitor, Respondent shall receive a notification from the Board or its designee to cease the
4 practice of medicine within three (3) calendar days after being so notified. Respondent shall
5 cease the practice of medicine until a replacement monitor is approved and assumes monitoring
6 responsibility.

7 10. VIOLATION OF PROBATION CONDITION FOR SUBSTANCE ABUSING
8 LICENSEES. Failure to fully comply with any term or condition of probation is a violation of
9 probation.

10 A. If Respondent commits a major violation of probation as defined by section 1361.52,
11 subdivision (a), of Title 16 of the California Code of Regulations, the Board shall take one or
12 more of the following actions:

13 (1) Issue an immediate cease-practice order and order Respondent to undergo a clinical
14 diagnostic evaluation to be conducted in accordance with section 1361.5, subdivision (c)(1), of
15 Title 16 of the California Code of Regulations, at Respondent's expense. The cease-practice
16 order issued by the Board or its designee shall state that Respondent must test negative for at least
17 a month of continuous biological fluid testing before being allowed to resume practice. For
18 purposes of the determining the length of time a Respondent must test negative while undergoing
19 continuous biological fluid testing following issuance of a cease-practice order, a month is
20 defined as thirty calendar (30) days. Respondent may not resume the practice of medicine until
21 notified in writing by the Board or its designee that he or she may do so.

22 (2) Increase the frequency of biological fluid testing.

23 (3) Refer Respondent for further disciplinary action, such as suspension, revocation, or
24 other action as determined by the Board or its designee.

25 B. If Respondent commits a minor violation of probation as defined by section 1361.52,
26 subdivision (c), of Title 16 of the California Code of Regulations, the Board shall take one or
27 more of the following actions:

28 (1) Issue a cease-practice order;

- 1 (2) Order practice limitations;
2 (3) Order or increase supervision of Respondent;
3 (4) Order increased documentation;
4 (5) Issue a citation and fine, or a warning letter;
5 (6) Order Respondent to undergo a clinical diagnostic evaluation to be conducted in
6 accordance with section 1361.5, subdivision (c)(1), of Title 16 of the California Code of
7 Regulations, at Respondent's expense;
8 (7) Take any other action as determined by the Board or its designee.

9 C. Nothing in this Decision shall be considered a limitation on the Board's authority to
10 revoke Respondent's probation if he or she has violated any term or condition of probation. If
11 Respondent violates probation in any respect, the Board, after giving Respondent notice and the
12 opportunity to be heard, may revoke probation and carry out the disciplinary order that was
13 stayed. If an Accusation, or Petition to Revoke Probation, or an Interim Suspension Order is filed
14 against Respondent during probation, the Board shall have continuing jurisdiction until the matter
15 is final, and the period of probation shall be extended until the matter is final.

16 11. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the
17 Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the
18 Chief Executive Officer at every hospital where privileges or membership are extended to
19 Respondent, at any other facility where Respondent engages in the practice of medicine,
20 including all physician and locum tenens registries or other similar agencies, and to the Chief
21 Executive Officer at every insurance carrier which extends malpractice insurance coverage to
22 Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15
23 calendar days.

24 This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

25 12. OBEY ALL LAWS. Respondent shall obey all federal, state and local laws, all rules
26 governing the practice of medicine in California and remain in full compliance with any court
27 ordered criminal probation, payments, and other orders.

28 ///

1 13. QUARTERLY DECLARATIONS. Respondent shall submit quarterly declarations
2 under penalty of perjury on forms provided by the Board, stating whether there has been
3 compliance with all the conditions of probation.

4 Respondent shall submit quarterly declarations not later than 10 calendar days after the end
5 of the preceding quarter.

6 14. GENERAL PROBATION REQUIREMENTS.

7 Compliance with Probation Unit

8 Respondent shall comply with the Board's probation unit.

9 Address Changes

10 Respondent shall, at all times, keep the Board informed of Respondent's business and
11 residence addresses, email address (if available), and telephone number. Changes of such
12 addresses shall be immediately communicated in writing to the Board or its designee. Under no
13 circumstances shall a post office box serve as an address of record, except as allowed by Business
14 and Professions Code section 2021(b).

15 Place of Practice

16 Respondent shall not engage in the practice of medicine in Respondent's or patient's place
17 of residence, unless the patient resides in a skilled nursing facility or other similar licensed
18 facility or such practice is part of Respondent's work for Mobile Medicine Outreach (MMO).
19 Respondent's records for MMO shall be available for immediate inspection and copying on the
20 premises of MMO by the Board or its designee at all times during business hours and shall be
21 retained for the entire term of probation.

22 License Renewal

23 Respondent shall maintain a current and renewed California physician's and surgeon's
24 license.

25 Travel or Residence Outside California

26 Respondent shall immediately inform the Board or its designee, in writing, of travel to any
27 areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty
28 (30) calendar days.

1 In the event Respondent should leave the State of California to reside or to practice
2 Respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of
3 departure and return.

4 15. INTERVIEW WITH THE BOARD OR ITS DESIGNEE. Respondent shall be
5 available in person upon request for interviews either at Respondent's place of business or at the
6 probation unit office, with or without prior notice throughout the term of probation.

7 16. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or
8 its designee in writing within 15 calendar days of any periods of non-practice lasting more than
9 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is
10 defined as any period of time Respondent is not practicing medicine as defined in Business and
11 Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct
12 patient care, clinical activity or teaching, or other activity as approved by the Board. If
13 Respondent resides in California and is considered to be in non-practice, Respondent shall
14 comply with all terms and conditions of probation. All time spent in an intensive training
15 program which has been approved by the Board or its designee shall not be considered non-
16 practice and does not relieve Respondent from complying with all the terms and conditions of
17 probation. Practicing medicine in another state of the United States or Federal jurisdiction while
18 on probation with the medical licensing authority of that state or jurisdiction shall not be
19 considered non-practice. A Board-ordered suspension of practice shall not be considered as a
20 period of non-practice.

21 In the event Respondent's period of non-practice while on probation exceeds 18 calendar
22 months, Respondent shall successfully complete the Federation of State Medical Board's Special
23 Purpose Examination, or, at the Board's discretion, a clinical competence assessment program
24 that meets the criteria of Condition 18 of the current version of the Board's "Manual of Model
25 Disciplinary Orders and Disciplinary Guidelines" prior to resuming the practice of medicine.

26 Respondent's period of non-practice while on probation shall not exceed two (2) years.
27 Periods of non-practice will not apply to the reduction of the probationary term.

28 Periods of non-practice for a Respondent residing outside of California, will relieve

Respondent of the responsibility to comply with the probationary terms and conditions with the exception of this condition and the following terms and conditions of probation: Obey All Laws; General Probation Requirements; Quarterly Declarations; Abstain from the Use of Alcohol and/or Controlled Substances; and Biological Fluid Testing.

17. COMPLETION OF PROBATION. Respondent shall comply with all financial obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the completion of probation. Upon successful completion of probation, Respondent's certificate shall be fully restored.

18. VIOLATION OF PROBATION. Failure to fully comply with any term or condition of probation is a violation of probation. If Respondent violates probation in any respect, the Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation, or an Interim Suspension Order is filed against Respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

19. LICENSE SURRENDER. Following the effective date of this Decision, if Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy the terms and conditions of probation, Respondent may request to surrender his or her license. The Board reserves the right to evaluate Respondent's request and to exercise its discretion in determining whether or not to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its designee and Respondent shall no longer practice medicine. Respondent will no longer be subject to the terms and conditions of probation. If Respondent re-applies for a medical license, the application shall be treated as a petition for reinstatement of a revoked certificate.

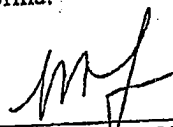
20. PROBATION MONITORING COSTS. Respondent shall pay the costs associated with probation monitoring each and every year of probation, as designated by the Board, which may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of

1 California and delivered to the Board or its designee no later than January 31 of each calendar
2 year.

3 ACCEPTANCE

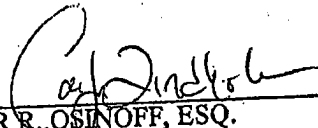
4 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
5 discussed it with my attorney, Peter R. Osinoff, Esq. I understand the stipulation and the effect it
6 will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and
7 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
8 Decision and Order of the Medical Board of California.

9
10 DATED: 3/21/2017


MICHAEL TRUONG, M.D.
Respondent

12 I have read and fully discussed with Respondent Michael Truong, M.D. the terms and
13 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
14 I approve its form and content.

15 DATED: 3/21/2017


PETER R. OSINOFF, ESQ.
Attorney for Respondent

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22 [Endorsement on following page]
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28

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Medical Board of California.

Dated: 3/21/17

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
JUDITH T. ALVARADO
Supervising Deputy Attorney General



CHRISTINA L. SEIN
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 800-2015-013826

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO June 17 20 16
BY R. Firdaus ANALYST

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7 *Attorneys for Complainant*

8 **BEFORE THE**
9 **MEDICAL BOARD OF CALIFORNIA**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. 800-2015-013826

12 **Michael Truong, M.D.**
13 **757 Westwood Plz Ste 3304**
Los Angeles, CA 90095

A C C U S A T I O N

14 **Physician's and Surgeon's Certificate**
15 **No. A124243,**

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

20 1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official
21 capacity as the Executive Director of the Medical Board of California, Department of Consumer
22 Affairs (Board).

23 2. On or about January 11, 2013, the Board issued Physician's and Surgeon's Certificate
24 Number A124243 to Michael Truong, M.D. (Respondent). The Physician's and Surgeon's
25 Certificate was in full force and effect at all times relevant to the charges brought herein and will
26 expire on December 31, 2016, unless renewed.

27 ///

28 ///

JURISDICTION

3. This Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2227 of the Code provides that a licensee who is found guilty under the Medical Practice Act may have his or her license revoked, suspended for a period not to exceed one year, placed on probation and required to pay the costs of probation monitoring, or such other action taken in relation to discipline as the Board deems proper.

5. Section 2234, subdivision (a), of the Code states:

"The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

"(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of this chapter."

6. Section 2239, subdivision (a), of the Code states:

"(a) The use or prescribing for or administering to himself or herself, of any controlled substance; or the use of any of the dangerous drugs specified in Section 4022, or of alcoholic beverages, to the extent, or in such a manner as to be dangerous or injurious to the licensee, or to any other person or to the public, or to the extent that such use impairs the ability of the licensee to practice medicine safely or more than one misdemeanor or any felony involving the use, consumption, or self-administration of any of the substances referred to in this section, or any combination thereof, constitutes unprofessional conduct. The record of the conviction is conclusive evidence of such unprofessional conduct."

7. California Code of Regulations, title 16, section 1360, states:

"For the purposes of denial, suspension or revocation of a license, certificate or permit pursuant to Division 1.5 (commencing with Section 475) of the code, a crime or act shall be considered to be substantially related to the qualifications, functions or duties of a person holding a license, certificate or permit under the Medical Practice Act if to a substantial degree it evidences present or potential unfitness of a person holding a license, certificate or permit to perform the

1 functions authorized by the license, certificate or permit in a manner consistent with the public
2 health, safety or welfare. Such crimes or acts shall include but not be limited to the following:
3 Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of,
4 or conspiring to violate any provision of the Medical Practice Act."

5 **FIRST CAUSE FOR DISCIPLINE**

6 **(Use of Controlled Substances in a Dangerous or Injurious Manner)**

7 8. Respondent's license is subject to disciplinary action under sections 2234, subdivision
8 (a), and 2239, subdivision (a), of the Code, and California Code of Regulations, title 16, section
9 1360, in that he used controlled substances, to the extent, or in such a manner as to be dangerous
10 or injurious to himself, to any other person or to the public, as more particularly alleged
11 hereinafter:

12 9. In or about July 2011, Respondent entered the anesthesiology residency program
13 (Residency Program) at UCLA.

14 10. The Board received notification that Respondent was to be terminated from the
15 Residency Program, effective May 10, 2015, for violating the terms of his employment contract by
16 testing positive for a controlled substance.

17 11. In an interview with Board investigators, Respondent admitted that, after being
18 prescribed oxycodone for a ski injury he received in March 2013, he became addicted to
19 hydromorphone, a Schedule II controlled substance. (Health & Saf. Code § 11055(b)(1)(J)).
20 Respondent admitted that he stole opiates (e.g., hydromorphone) from the Residency Program
21 hospital he worked at for self-use, by taking home leftover vials of opiates administered to patients
22 that, per standard procedure, should have been discarded.

23 12. Respondent was notified by the Residency Program in April 2015 of the termination
24 from the program and resigned prior to the effective date of the termination.

25 **SECOND CAUSE FOR DISCIPLINE**

26 **(General Unprofessional Conduct)**

27 13. Respondent's license is subject to disciplinary action under sections 2234, subdivision
28 (a), and 2239, subdivision (a), of the Code, in that he has engaged in conduct which breaches the

1 rules or ethical code of the medical profession, or conduct which is unbecoming to a member in
2 good standing of the medical profession, and which demonstrates an unfitness to practice
3 medicine, as more particularly alleged in paragraphs 9 through 12 above, which are hereby
4 incorporated by reference and realleged as if fully set forth herein.

5 **THIRD CAUSE FOR DISCIPLINE**

6 **(Violation of the State Medical Practice Act)**

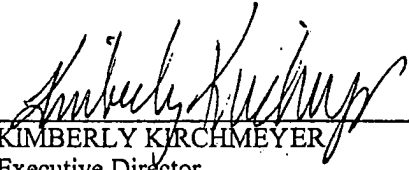
7 14. Respondent is further subject to disciplinary action under section 2234, subdivision
8 (a), of the Code, and California Code of Regulations, title 16, section 1360, in that he has violated
9 a provision or provisions of the Medical Practice Act, as more particularly alleged in paragraphs 9
10 through 12, above, which are hereby incorporated by reference and realleged as if fully set forth
11 herein.

12 **PRAYER**

13 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
14 and that following the hearing, the Medical Board of California issue a decision:

- 15 1. Revoking or suspending Physician's and Surgeon's Certificate Number A124243,
16 issued to Michael Truong, M.D.;
- 17 2. Revoking, suspending or denying approval of Michael Truong, M.D.'s authority to
18 supervise physician assistants, pursuant to section 3527 of the Code;
- 19 3. Ordering Michael Truong, M.D., if placed on probation, to pay the Board the costs of
20 probation monitoring; and
- 21 4. Taking such other and further action as deemed necessary and proper.

22
23 DATED: June 17, 2016


KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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